

REMARKS

Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Claims 15-23 and 25-27 are pending in this application. By this Amendment, claims 15-20 and 23 are amended; claims 1-14 and 24 are cancelled without prejudice to, or disclaimer of, the subject matter contained therein; and claims 26 and 27 are added. No new matter is added. Claims 15 and 27 are the independent claims.

Election/Restriction Requirement

Applicants acknowledge the election of Group II, of which claims 15-23 and 25 read on, and claims 1-14 and 24 have been withdrawn by the Examiner as being directed to a non-elected invention. Accordingly, Applicants have cancelled claims 1-14 and 24. Applicants respectfully reserve the right to file a divisional application directed to the non-directed invention.

Claim Rejections - 35 U.S.C. § 112

Claims 17 and 21 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants respectfully traverse this rejection for the reasons discussed below.

By the instant Amendment, Applicants have amended claim 17 to recite "the profiled mat is from a material with a lower melting point than the resilient and/or damping material." Reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, are respectfully requested.

Claim Rejections - 35 U.S.C. § 102

I. Garcia

Claims 15-18 and 22-23 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,254,039 (“Garcia”). Applicants respectfully traverse this rejection for the reasons discussed below.

Applicants respectfully submit that the Garcia reference fails to disclose, or even suggest, *inter alia*, “**permanent air chambers** formed in the layer or resilient and/or dampen material during or after arrangement of the layer,” (*emphasis added*) as recited in amended claim 15.

In contrast, the Garcia reference discloses non-permanent air chambers which have to be formed by introducing compressed air into the structures supporting the surface whenever the field is being used. *See col. 2, lines 4-35 of Garcia*. In addition, Applicants respectfully submit that the purported “air chambers” in the Garcia reference are not arranged in the resilient and/or dampen layer as taught in claim 15. In other words, although the Garcia reference may disclose a layer of resilient and/or dampening material, it is respectfully submitted that this layer is not formed by the filler material 20 placed between the tops of the ribs 18, but rather by the layer of padding 12. Therefore, it is respectfully submitted that the filler material 20 of the Garcia reference cannot be constituted as “a layer of resilient and/or dampening material” of claim 15.

Therefore, contrary to the Examiner’s contention, the Garcia reference does not disclose or suggest each and every element of claim 15. Since the Garcia reference fails to disclose each and every element of claim 15, it cannot provide a basis for a rejection under 35 U.S.C. § 102(b) and, thus, is allowable. Claims 16-18, 22, and 23

depend from amended claim 15 and, therefore, allowable for the similar reasons discussed above with respect to claim 15.

For at least these reasons, the Examiner is respectfully requested to reconsider and withdraw the § 102(b) rejection of claims 15-18 and 22-23.

II. Magnusson

Claims 15 and 20 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,460,867 ("Magnusson"). Applicants respectfully traverse this rejection for the reasons discussed below.

Applicants respectfully submit that the Magnusson reference fails to disclose, or even suggest, *inter alia*, "permanent air chambers are formed in the layer of resilient and/or dampening material during or after arrangement of the layer," as recited in amended claim 15.

In the outstanding Final Office Action, the Examiner asserts that "from Figures 1 and 4, one can see how the layer of resilient and/or dampening material 11 forms air chambers during or after arranging the layer because the air chambers are defined by the contours of the resilient and/or dampening material." *See Final Office Action mailed January 16, 2009, page 4, first paragraph.* However, even assuming that the Examiner's interpretation that the Magnusson reference teaches air chambers formed in the layer of resilient and/or dampening material ("rubber matting" 11), it is respectfully submitted that the air chambers are not formed during or after arrangement of the layer. In fact, the Examiner's interpretation requires that the air chambers to be defined by the contours of the lower surface of the layer, which is a pre-processed feature. Alternatively, even if the air chambers are interpreted as being formed during or after arrangement of the layer, then it follows that they are not formed in the layer. This alternative interpretation would require that the air chamber

to be defined by placing the air on the substrate, so that the air chambers would then be formed between the layer and the substrate. However, claim 15 recites that the air chambers to be formed **in** the layer and **during or after arrangement** of the layer.

Accordingly, Applicants respectfully submit that Magnusson fails to disclose or suggest “permanent air chambers are formed in the layer of resilient and/or dampening material during or after arrangement of the layer,” as recited in amended claim 15.

Therefore, contrary to the Examiner’s contention, the Magnusson reference does not disclose or suggest each and every element of claim 15. Since the Magnusson reference fails to disclose each and every element of claim 15, it cannot provide a basis for a rejection under 35 U.S.C. § 102(b) and, thus, is allowable. Claim 20 depends from amended claim 15 and, therefore, allowable for the similar reasons discussed above with respect to claim 15.

For at least these reasons, the Examiner is respectfully requested to reconsider and withdraw the § 102(b) rejection of claims 15 and 20.

Claim Rejections - 35 U.S.C. § 103

Claim 19 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Garcia in view of Official Notice. Applicants respectfully traverse this rejection for the reasons discussed below.

Claim 19 is believed to be allowable for at least the reasons set forth above regarding claim 15. Since claim 19 is patentable at least by virtue of its dependency on claim 15, Applicants respectfully request that the rejection of claim 19 under 35 U.S.C. § 103(a) be withdrawn.

Claim 17 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Garcia in view of U.S. Patent No. 5,853,265 ("Gunter"). Applicants respectfully traverse this rejection for the reasons discussed below.

Claim 17 is believed to be allowable for at least the reasons set forth above regarding claim 15. Since claim 17 is patentable at least by virtue of its dependency on claim 15, Applicants respectfully request that the rejection of claim 17 under 35 U.S.C. § 103(a) be withdrawn.

Claim 21 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Garcia in view of Gunter and further in view of U.S. Patent No. 4,007,307 ("Friedrich"). Applicants respectfully traverse this rejection for the reasons discussed below.

Claim 21 is believed to be allowable for at least the reasons set forth above regarding claim 15. The Friedrich reference fails to provide the teachings noted above as missing from the Garcia reference. Since claim 21 is patentable at least by virtue of its dependency on claim 15, Applicants respectfully request that the rejection of claim 21 under 35 U.S.C. § 103(a) be withdrawn.

Claim 25 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Magnusson in view of Friedrich. Applicants respectfully traverse this rejection for the reasons discussed below.

Claim 25 is believed to be allowable for at least the reasons set forth above regarding claim 15. The Friedrich reference fails to provide the teachings noted above as missing from the Magnusson reference. Since claim 25 is patentable at least by virtue of its dependency on claim 15, Applicants respectfully request that the rejection of claim 25 under 35 U.S.C. § 103(a) be withdrawn.

New Claims

New claims 26 and 27 have been added in an effort to provide further, different protection for Applicants' invention. For instance:

new claim 26 is allowable at least for the reasons somewhat similar to those given for claim 15, and/or for the further features recited therein; and

new claim 27 recites that the "the air chambers taking the form of recesses in the upper part of the relatively hard substrate created by a moving machine provided with protruding parts." Support may be found in the originally filed disclosure, e.g., at page 10, lines 16-20, which refer back to the first embodiment described on page 7, lines 14-21; and FIG. 6. In contrast, the Magnuson reference discloses the air chambers in the substrate 13 formed by an embossed separation layer 12.

Request for Interview

Applicants respectfully request, prior to the issuance of an action on the merits, that the Examiner grant an interview (telephonic or in-person) with Applicants' representative in order to discuss the Office Action, and the differences between the cited prior art and the subject matter cited in the claims.

Applicants' representative will telephone the Examiner in the near future in an attempt to schedule this interview. However, as Applicants' representative cannot anticipate when this action will be scheduled for further action by the Examiner, it is requested that the Examiner contact **David J. Cho, Reg. No. 48,078** by telephone, at the number given below should a specific date for the interview have not been scheduled when the Examiner takes this action up for further action. Every effort will be made to meet the Examiner's scheduling preference.

CONCLUSION

In view of the above remarks and amendments, Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. Further, the above remarks demonstrate the failings of the outstanding rejections, and are sufficient to overcome the rejections. However, these remarks are not intended to, nor need they, comprehensively address each and every reason for the patentability of the claimed subject matter over the applied prior art. Accordingly, Applicants do not contend that the claims are patentable solely on the basis of the particular claim elements discussed above.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant hereby petitions for a three (3) month extension of time for filing a reply to the outstanding Office Action and submit the required \$555 extension fee herewith.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned, at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By


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